

1 UNITED STATES DISTRICT COURT  
2 CENTRAL DISTRICT OF CALIFORNIA  
3 WESTERN DIVISION  
4

5 McRO, Inc., d.b.a. Planet Blue,

6  
7 Plaintiff,

8 v.

9 Valve Corporation,

10 Defendant.  
11  
12

CASE No. 8:13-cv-01874-GW (FFMx)

**[PROPOSED] PROTECTIVE  
ORDER GOVERNING THE  
DESIGNATION AND HANDLING  
OF CONFIDENTIAL MATERIALS**

13 To expedite the flow of discovery material, to facilitate the prompt  
14 resolution of disputes over confidentiality of discovery materials, to adequately  
15 protect information the parties are entitled to keep confidential, to ensure that  
16 only materials the parties are entitled to keep confidential are subject to such  
17 treatment, and to ensure that the parties are permitted reasonably necessary uses  
18 of such materials in preparation for and in the conduct of trial, it is hereby  
19 ORDERED THAT:  
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21 1. **DEFINITIONS.** The terms defined in this Section 1 and  
22 parenthetically elsewhere shall, throughout this Order, have the meanings  
23 provided. Defined terms may be used in the singular or plural.

24 1.1 The “Action” means the above-captioned litigation filed by  
25 McRO, Inc. d.b.a. Planet Blue in the Central District of California,  
26 specifically McRO, Inc. d.b.a. Planet Blue v. Valve Corporation, Case No.  
27 8:13-cv-01874-GW (FFMx).  
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1                   1.2 “Party” means a party to the Action, including all of its  
2 officers, directors, employees, consultants, retained experts, and outside  
3 counsel (and their support staff).

4                   1.3 “Material” means all information, documents, testimony, and  
5 things produced, served or otherwise provided in this action by any Party  
6 or by any non-party.

7                   1.4 “Designated Material” means any Material that is designated  
8 “CONFIDENTIAL”, “ATTORNEYS’ EYES ONLY”, and/or  
9 “RESTRICTED CONFIDENTIAL – SOURCE CODE” under this Order.

10                  1.4 “Designating Party” means a Party or non-party that  
11 designates any Material in productions, in disclosures, or in responses to  
12 discovery as “CONFIDENTIAL”, “ATTORNEYS’ EYES ONLY”,  
13 and/or “RESTRICTED CONFIDENTIAL – SOURCE CODE.”

14                  1.5 “Producing Party” means any Party or non-party that discloses  
15 or produces Material in this Action.

16                  1.6 “Receiving Party” means any Party receiving production or  
17 disclosure of Material in this Action.

18                  1.7 “Confidential Material” means information, documents, and  
19 things the Designating Party believes in good faith constitutes trade secret  
20 or other confidential research, development, or commercial information  
21 that is maintained in confidence by the Designating Party and not  
22 generally known to others.

23                  1.8 “Attorneys’ Eyes Only Material” means Confidential Material  
24 that the Designating Party believes in good faith has significant  
25 competitive value such that unrestricted disclosure to others would create  
26 a substantial risk of serious injury.

27                  1.9 “Restricted Confidential – Source Code Material” means  
28 Confidential Material, if any, that constitutes, relates to, or describes

1 human-readable programming language text that defines software or  
2 firmware, pseudocode, or other sensitive code (collectively, “Source  
3 Code”) that has significant competitive value such that unrestricted  
4 disclosure to others would create a substantial risk of serious injury.

5 1.10 “Counsel of Record” means (i) outside counsel who has  
6 entered an appearance as counsel for a Party and has not subsequently  
7 withdrawn, (ii) partners, principals, counsel, associates, employees and  
8 contract attorneys of such outside counsel to whom it is reasonably  
9 necessary to disclose the information for this Action, including supporting  
10 personnel employed by the attorneys, such as paralegals, legal translators,  
11 legal secretaries, legal clerks and shorthand reporters, and/or (iii)  
12 independent legal translators retained to translate in connection with this  
13 Action, or independent shorthand reporters retained to record and  
14 transcribe testimony in connection with this Action.

15 1.11 “Outside Consultant” means any person with specialized  
16 knowledge or experience in a matter pertinent to this Action who has been  
17 retained by Counsel of Record to serve as an expert witness, or as a  
18 consultant in this Action, and who is not a current employee of a Party or  
19 of a competitor of a Party and who, at the time of retention, is not  
20 anticipated to become an employee of a Party or of a competitor of a  
21 Party.

22 1.12 “Professional Vendors” means any persons or entities that  
23 provide litigation support services and their employees and subcontractors  
24 who have been retained or directed by Counsel of Record in this action,  
25 and who are not current employees of a Party or of a competitor of a Party  
26 and who, at the time of retention, are not anticipated to become employees  
27 of a Party or of a competitor of a Party. Litigation support services  
28 include but are not limited to: photocopying; videotaping; translating;

1 designing and preparing exhibits, graphics, or demonstrations; organizing,  
2 storing, retrieving data in any form or medium; etc. Professional Vendors  
3 include ESI vendors and professional jury or trial consultants retained in  
4 connection with this litigation. Professional Vendors do not include  
5 consultants who fall within the definition of Outside Consultant.

6 1.13 “Termination” means the dismissal of the Action (whether  
7 through settlement or otherwise), or the entry of final judgment and  
8 expiration of all periods to appeal or to seek judicial review of such  
9 judgment or dismissal.

10 1.14 “Affiliate” shall mean, with respect to any Party, any other  
11 entity controlling, controlled by, or under common control with that Party.  
12 As used in this definition, the term “control” means the ownership of more  
13 than fifty percent (50%) of the ownership or equity interests of such  
14 entity.

15 2. **SCOPE.**

16 2.1 The protections conferred by this Order cover not only Designated  
17 Material (as defined above), but also any information copied or extracted  
18 therefrom, as well as all copies, excerpts, summaries, or compilations thereof.  
19 Nothing herein shall alter or change in any way the discovery provisions of the  
20 Federal Rules of Civil Procedure, the Local Rules of this Court, or the Court’s  
21 deadlines provided in any scheduling order or discovery order issued by the  
22 Court. Identification of any individual pursuant to this Order does not make that  
23 individual available for deposition, or any other form of discovery outside of the  
24 restrictions and procedures of the Federal Rules of Civil Procedure, the Local  
25 Rules of this Court, and the Court’s deadlines provided in any scheduling order  
26 or discovery order issued by the Court.

27 2.2 This Order does not confer any right to any Defendant’s in-house  
28 attorney to access the Designated Material of any other Defendant. Furthermore,

absent a specific agreement, no Defendant is required to produce its Designated Material to any other Defendant or Defendant's counsel, but nothing in this Order shall preclude such production. Notwithstanding the provisions of this Protective Order, any Designated Material designated by a Defendant shall not be disclosed by the Plaintiff to any other Defendant or Defendant's counsel (except in Court filings otherwise complying with this Order) absent explicit written agreement from the producing Defendant, but nothing herein shall prohibit Counsel of Record for any party from access to complete Court filings or oral argument in Court if necessary.

2.3 Nothing herein applies to evidence presented at any open court proceeding (including trial). Any protective measures relating to confidential information that may be disclosed during any open court proceedings should be taken up with the judicial officer conducting the proceeding at the appropriate time.

3. **MATERIAL DESIGNATED "CONFIDENTIAL."** Any Designating Party may designate as "CONFIDENTIAL" any Material that the party believes in good faith constitutes Confidential Material. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any Material designated "CONFIDENTIAL" only to:

- (a) Persons who appear on the face of the Designated Material as an author, addressee, or recipient thereof;
- (b) Up to two (2) in-house employees of a Receiving Party (including a parent or affiliate of a Receiving Party), and necessary secretarial staff, who are responsible for providing oversight of or assistance in the litigation, provided that any such employee or staff has signed the "Acknowledgement and Agreement To Be Bound By Protective Order" attached hereto

- 1 as Exhibit A, and provided an executed copy to the Producing  
2 Party prior to receiving any Designated Material;
- 3 (c) Counsel of Record for the Designating Party or the Receiving  
4 Party;
- 5 (d) Outside Consultants of the Receiving Party (including  
6 necessary employees of the Outside Consultants) to whom  
7 disclosure is reasonably necessary for this litigation, and who  
8 have signed the “Acknowledgement and Agreement To Be  
9 Bound By Protective Order” attached hereto as Exhibit A, and  
10 the “Certification Of Consultant” attached hereto as Exhibit B,  
11 with the provisions of Section 6 being complied with prior to  
12 receiving any Designated Material;
- 13 (e) Witnesses at deposition and/or trial consistent with the  
14 provisions of Section 7 below, provided that such witnesses  
15 may not retain copies of Designated Material unless permitted  
16 by other provisions of this Order;
- 17 (f) The Court and its personnel, any technical advisor that the  
18 Court may appoint, and any Jury impaneled in the Action;
- 19 (g) Any designated arbitrator or mediator who is assigned to hear  
20 this matter, or who has been selected by the Parties, and his or  
21 her staff;
- 22 (h) Court reporters and videographers employed in connection  
23 with this case;
- 24 (i) Professional Vendors to whom disclosure is reasonably  
25 necessary for this Action;
- 26 (j) Jury consultants, trial consultants, or mock jurors selected by  
27 counsel in preparation for trial, provided they have signed the  
28 “Acknowledgement and Agreement To Be Bound By

Protective Order” attached hereto as Exhibit A; and

(k) Any other person authorized by written agreement of the Producing Party and the Receiving Party or by order of the Court.

4. **MATERIAL DESIGNATED “ATTORNEYS’ EYES ONLY.”**

Any Designating Party may designate as “ATTORNEYS’ EYES ONLY” any Material that the party believes in good faith constitutes Attorneys’ Eyes Only Material. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, Material designated as “ATTORNEYS’ EYES ONLY” shall be treated as Material designated as “CONFIDENTIAL” with the further restriction that it shall not be disclosed to any person identified in Sections 3(b) above.

5. **MATERIAL DESIGNATED “RESTRICTED CONFIDENTIAL – SOURCE CODE.”** Any Designating Party may designate as “RESTRICTED CONFIDENTIAL – SOURCE CODE” any Material that the party believes in good faith constitutes Restricted Confidential – Source Code Material. Unless otherwise ordered by the Court or permitted in writing by the Designating Party, Material designated as “RESTRICTED CONFIDENTIAL – SOURCE CODE” shall be treated as Material designated as “ATTORNEYS’ EYES ONLY” with the further restriction that (i) it shall not be disclosed to any person identified in Sections 3(g), 3(i), or 3(j) above; (ii) shall be disclosed to no more than three persons identified in Section 3(d) above; and (iii) such Material is subject to the provisions of Section 8 of this Order.

6. **DISCLOSURE TO OUTSIDE CONSULTANTS.** No disclosure of Designated Material to Outside Consultants shall occur until the notice and resolution of objection procedures of this Section are followed.

6.1 Notice. If a Receiving Party wishes to disclose another Party’s Designated Material to any Outside Consultant, such Receiving Party

1 must provide notice to counsel for the Designating Party, which notice  
2 shall include: (a) the individual's name and business title; (b) business  
3 address; (c) business or profession; (d) the individual's CV; (e) any  
4 previous or current relationship (personal or professional) with any of the  
5 Parties or any entity that the either Receiving Party or the Outside  
6 Consultant has reason to believe is an Affiliate of any of the Parties; (f) a  
7 list of other cases in which the individual has testified (at trial or by  
8 deposition) within the last four years; (g) a list of all companies with  
9 which the individual has consulted or by which the individual has been  
10 employed within the last four years; and (h) a signed copy of the  
11 "Acknowledgement and Agreement To Be Bound By Protective Order"  
12 attached as Exhibit A, and the "Certification Of Consultant" attached  
13 hereto as Exhibit B.

14 6.2 Objections. The Designating Party shall have seven (7)  
15 business days from receipt of the notice specified in Section 6.1 to object  
16 in writing to such disclosure (plus three (3) extra days if notice is given  
17 other than by hand delivery, e-mail transmission or facsimile  
18 transmission). Any such objection must set forth in detail the grounds on  
19 which it is based. After the expiration of the 7-day (plus 3-days, if  
20 appropriate) period, if no objection has been asserted, then Designated  
21 Material may be disclosed to the Outside Consultant pursuant to the terms  
22 of this Order. However, if the Designating Party objects within the 7-day  
23 (plus 3-days, if appropriate) period, the Receiving Party may not disclose  
24 Designated Material to the challenged individual absent resolution of the  
25 dispute or Court Order. In the event the Designating Party makes a timely  
26 objection, the parties shall promptly meet and confer to try to resolve the  
27 matter by agreement. If the parties cannot reach an agreement, the  
28 Objecting Party may, within five (5) business days following the meet and



1 confer, file a motion for a protective order preventing disclosure of  
2 Designated Material to the Outside Consultant, or for other appropriate  
3 relief. If the Objecting Party files a timely motion for a protective order,  
4 Designated Material shall not be disclosed to the challenged individual  
5 until and unless a final ruling allowing such disclosure is made by this  
6 Court, or by the consent of the Objecting Party, whichever occurs first. If  
7 the Objecting Party fails to file a motion for a protective order within the  
8 prescribed period the Designated Material may thereafter be disclosed to  
9 such individual.

10 **7. USE AT DEPOSITION OR TRIAL.**

11 7.1 A present director, officer, agent, employee, designated Rule  
12 30(b)(6) witness, and/or Outside Consultant of a Producing Party may be  
13 shown at deposition or at trial and examined on all Designated Material  
14 that has been produced by that Party;

15 7.2 A former director, officer, agent and/or employee of a  
16 Producing Party may be shown at deposition and examined on all  
17 Designated Material that the Receiving Party's Outside Counsel  
18 reasonably and in good faith believes the witness to have received or that  
19 refers to matters of which the witness has personal knowledge, that has  
20 been produced by that Party, and that pertains to the period or periods of  
21 his or her employment, engagement, or relationship with the Producing  
22 Party;

23 7.3 Non-parties may be shown at deposition and examined on any  
24 document containing Designated Material of a Producing Party that  
25 appears on its face, or which the Receiving Party's Outside Counsel  
26 reasonably and in good faith believes based on other documents or  
27 testimony, to have been received from or communicated to the non-party.  
28 Any person other than the witness, his or her attorney(s), and any person

1 qualified to receive Designated Material under this Order, shall be  
2 excluded from the portion of the examination concerning such  
3 information, unless the Producing Party consents to persons other than  
4 qualified recipients being present at the examination. If the witness is  
5 represented by an attorney who is not qualified under this Order to receive  
6 such information, then prior to the examination, the attorney shall be  
7 requested to sign the “Acknowledgement and Agreement To Be Bound  
8 By Protective Order” attached as Exhibit A. In the event that such attorney  
9 declines to sign the Acknowledgement and Agreement To Be Bound By  
10 Protective Order prior to the examination, the parties, by their attorneys,  
11 shall jointly seek a protective order from the Court prohibiting such  
12 attorney from disclosing such Designated Material.

13 7.4 A witness who previously had access to a document  
14 designated “CONFIDENTIAL,” “ATTORNEYS’ EYES ONLY,” or  
15 “RESTRICTED CONFIDENTIAL – SOURCE CODE” but who is not  
16 under a present non-disclosure agreement with the Producing Party that  
17 covers that document, may be shown the document at deposition if the  
18 witness is advised on the record of the existence of the Protective Order  
19 and that the protective order requires the parties to keep confidential any  
20 questions, testimony or documents that are designated as  
21 “CONFIDENTIAL,” “ATTORNEYS’ EYES ONLY,” or “RESTRICTED  
22 CONFIDENTIAL – SOURCE CODE.” The witnesses may not copy,  
23 take notes on or retain copies of any Designated Material used or  
24 reviewed at the deposition. The witness may not take out of the deposition  
25 room any exhibit that is marked “CONFIDENTIAL”, “ATTORNEYS’  
26 EYES ONLY” or “RESTRICTED CONFIDENTIAL – SOURCE  
27 CODE”. The Producing Party of any Designated Material used at the  
28 deposition may also require that the transcript and exhibits not be copied

1 by a witness who is not subject to this Order or his counsel who is not  
2 subject to this Order, that no notes may be made of the transcript or the  
3 exhibits, and that the transcript and exhibits may only be reviewed by the  
4 witness in the offices of one of the counsel representing a party in this  
5 case (or another firm acting for one of the counsel representing a party in  
6 this case and under the supervision of one of the lawyers who is bound by  
7 the terms of this Order).

8 7.5 Except as may be otherwise ordered by the Court, and without  
9 limitation as to any of the other provisions of this section, any person may  
10 be examined as a witness by deposition, and may testify concerning all  
11 Designated Material of which such person has prior knowledge.

12 7.6 Notwithstanding any sub-Section of this Section 7, no copies of  
13 Designated Material may be provided to any deponent other than for  
14 purposes of the examination without the written consent of the Producing  
15 Party.

16 8. **PRODUCTION OF SOURCE CODE.** To the extent any Party's  
17 Source Code is relevant and discoverable in this Action, this Section shall  
18 govern the production of Source Code in this Action. The provision of this  
19 section shall also be available for the production of Source Code by non-parties,  
20 however, such production may be governed by a supplemental confidentiality  
21 order negotiated between the Receiving Party and the non-party.

22 8.1 Source Code designated as "RESTRICTED CONFIDENTIAL  
23 – SOURCE CODE" shall be made available for the Receiving Party's  
24 inspection. Source Code designated as "RESTRICTED  
25 CONFIDENTIAL – SOURCE CODE" shall be maintained by the  
26 Producing Party and made available for inspection by the Receiving Party  
27 only on a single stand-alone computer (that is, a computer not connected  
28 to any network, the Internet, or any peripheral device other than a

1 keyboard, mouse, and monitor). Any reasonable request for production of  
2 Source Code on additional stand-alone computers shall be considered in  
3 good faith and not be unreasonably withheld. The stand-alone computer  
4 shall be maintained in a secured location at the offices of the Producing  
5 Party's outside counsel or at the offices of the Party, access to which shall  
6 be controlled by reasonable physical (*e.g.*, locked doors) and electronic  
7 (*e.g.*, password or other access provisions) security measures. Use of any  
8 input/output device (*e.g.*, USB memory stick, CDs, floppy disk, portable  
9 hard drive, etc.) is prohibited while accessing the computer containing the  
10 Source Code, and the Receiving Party shall not attempt to use any  
11 peripheral device of any kind (other than the keyboard, mouse, and  
12 monitor provided by the Producing Party) with the stand-alone computer,  
13 nor shall the Receiving Party attempt to install any software on the stand-  
14 alone computer. Should the Receiving Party desire particular software,  
15 including searching and analytic tools, to be installed, it shall provide that  
16 software to the Producing Party, request that the Producing Party install  
17 that software and describe that software's purpose, which request shall be  
18 considered in good faith. The Receiving Party shall not at any time use  
19 any compilers, interpreters or simulators in connection with the Producing  
20 Party's Source Code.

21 8.2 Inspection of Source Code shall be permitted during regular  
22 business hours (weekdays 9:00 a.m. to 5:00 p.m.) on reasonable notice of  
23 at least two business days, absent exigent circumstances or otherwise  
24 agreed to by the Producing Party. Should a Receiving Party desire to  
25 inspect a Producing Party's Source Code outside of regular business hours  
26 (*i.e.*, on weekends, or on weekdays other than between 9:00 a.m. and 5:00  
27 p.m.), the Receiving Party shall give five days' notice and shall pay  
28 reasonable fees for those employees/staff who work outside of regular

1 business hours to monitor the inspection.

2 8.3 At the Producing Party's selection, the secure location will be  
3 at the offices of the Producing Party's Counsel of Record or at the offices  
4 of the Party. Source Code and/or documents or items designated as  
5 "RESTRICTED CONFIDENTIAL – SOURCE CODE" shall be available  
6 for inspection only until the close of expert discovery.

7 8.4 The Receiving Party may create a back-up copy of the Source  
8 Code on the stand-alone computer. The software installed on the stand-  
9 alone computer, including any searching or analytical tools, may annotate,  
10 number the lines of, and label the pages of, the back-up copy of the code.  
11 Any back-up copies will remain on the stand-alone computer and be  
12 subject to all of the provisions of this Order.

13 8.5 No person shall copy, e-mail, transmit, upload, download,  
14 print, photograph, or otherwise duplicate any portion of Source Code, or  
15 documents or things designated "RESTRICTED CONFIDENTIAL –  
16 SOURCE CODE," except as follows:

17 (a) The Receiving Party may request a reasonable number of  
18 pages of Source Code to be printed. A reasonable number of pages means  
19 no more than 2,000 pages of Source Code per defendant, no more than  
20 100 pages of Source Code per game, and in any case, no more than 25  
21 contiguous pages of Source Code, on 8.5" x 11" paper with a font no  
22 smaller than Courier 10pt. The parties agree to negotiate printing beyond  
23 these page limits in good faith should the need arise. Within three (3)  
24 business days or such additional time as necessary due to volume  
25 requested, the Producing Party shall provide the requested material on  
26 marked paper bearing bates-numbers and the legend "RESTRICTED  
27 CONFIDENTIAL – SOURCE CODE."

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1 (b) Any printed pages of Source Code, and any other documents  
2 or things designated as “RESTRICTED CONFIDENTIAL – SOURCE  
3 CODE,” may be photocopied, but not digitally imaged, e-mailed,  
4 transmitted, uploaded, downloaded, photographed, or otherwise  
5 duplicated, to be provided to Outside Consultants. Apart from such  
6 photocopies, any printed pages of Source Code, and any other documents  
7 or things designated as “RESTRICTED CONFIDENTIAL – SOURCE  
8 CODE,” may not be copied, digitally imaged, e-mailed, transmitted,  
9 uploaded, downloaded, photographed, or otherwise duplicated, except in  
10 limited excerpts necessary to attach as exhibits to depositions, expert  
11 reports, court filings, or court presentations.

12 (c) A Receiving Party that wants to use any Source Code, or other  
13 documents or things designated as “RESTRICTED CONFIDENTIAL –  
14 SOURCE CODE,” at a deposition may, no earlier than 72 hours prior to  
15 any such deposition, make only as many copies, and only of the specific  
16 pages, as it intends to actually use at the deposition. At the conclusion of  
17 the deposition, the Producing Party (or its designee) will collect each copy  
18 of such material and will retain the original of any such exhibit, which  
19 shall not be appended to the transcript of the deposition.

20 (d) A Receiving Party that wants to file or otherwise submit any  
21 Source Code, or other documents or things designated as “RESTRICTED  
22 CONFIDENTIAL – SOURCE CODE,” to the Court in connection with a  
23 filing may, no earlier than 72 hours prior to the relevant filing, make only  
24 as many copies, and only of the specific pages as needed, for submission  
25 to the Court and shall file any and all such copies of the materials with an  
26 application to file under seal. Unless agreed to by the Producing Party,  
27 images or copies of source code shall not be included in correspondence  
28 between the parties.

1           8.6 Any paper copies, documents, or things designated  
2           “RESTRICTED CONFIDENTIAL – SOURCE CODE” shall be stored or  
3           viewed only at (i) the offices of Counsel of Record for the Receiving  
4           Party; (ii) the offices of Outside Consultants who have been approved to  
5           access “RESTRICTED CONFIDENTIAL – SOURCE CODE” materials;  
6           (iii) the site where any deposition is taken; (iv) the Court; or (v) any  
7           intermediate location necessary to transport the information to a hearing,  
8           trial, or deposition. Paper copies stored in locations (i) and (ii) shall be  
9           maintained at all times in a locked and secure area.

10           8.7 All source code made available for inspection shall be  
11           organized in the same directory structure as the source code is kept and/or  
12           compiled in the ordinary course of business. Further, to the extent files  
13           for one particular version of source code are grouped together in a single  
14           folder in the ordinary course of the Producing Party’s business, the  
15           Producing Party shall produce the source code in that manner. If, for any  
16           reasons, source code files are not produced for review, the parties agree to  
17           promptly meet and confer over whether such missing source code is  
18           necessary to understand the relevant operation of the accused products and  
19           over the production of any such necessary source code files in a timely  
20           manner in the format described above.

21           8.8 The Receiving Party shall maintain a log of all Source Code  
22           files, or documents or things marked “RESTRICTED CONFIDENTIAL –  
23           SOURCE CODE,” that are printed or photocopied, as well as the name  
24           and address of each person who has had access to such printed or  
25           photocopied pages. The Producing Party shall be entitled to this log on  
26           one business day’s advance notice.

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1           8.9 The Producing Party may maintain a Source Code Access Log  
 2 identifying, for each and every time any Source Code is viewed, or  
 3 accessed at the secure location: (1) the name of each person who accessed  
 4 the Source Code; (2) the date and time of access; and (3) the length of  
 5 time of access.

6           8.10 No Party shall physically, magnetically, digitally, optically, or  
 7 otherwise copy by any means, any Source Code, or documents or things  
 8 that another Party has designated “RESTRICTED CONFIDENTIAL –  
 9 SOURCE CODE,” subject to the exceptions enumerated above.

10           8.11 Outside personal electronic devices, such as phones and other  
 11 handheld devices, but not laptops or other personal computers, shall be  
 12 permitted in the secure room, but may not be used to store, record, or take  
 13 notes regarding the source code.

14           8.12 The Producing Party may visually monitor the activities of the  
 15 Receiving Party during any Source Code inspection, but only to ensure  
 16 that there is no unauthorized recording, copying, or transmission of the  
 17 Source Code. The Producing Party will not interfere with any work-  
 18 product or listen to other private communications between the Receiving  
 19 Party reviewing the Source Code. The Producing Party shall not  
 20 undertake any effort to determine which pages or portions of source code  
 21 have been reviewed. The Producing Party shall not videotape the actual  
 22 review of the source code by the Receiving Party.

23           9. **PROCEDURE FOR DESIGNATING MATERIAL.** Subject to  
 24 the limitations set forth in this Order, a Designating Party may: designate as  
 25 “CONFIDENTIAL” information that the Designating Party believes, in good  
 26 faith, meets the definition of Confidential Material set forth in Section 1.7 above;  
 27 designate as “ATTORNEYS’ EYES ONLY” information that it believes, in  
 28 good faith, meets the definition of Attorneys’ Eyes Only Material set forth in



1 Section 1.8 above; and designate as “RESTRICTED CONFIDENTIAL –  
2 SOURCE CODE” information that it believes, in good faith, meets the definition  
3 of Restricted Confidential – Source Code Material set forth in Section 1.9 above.

4 9.1 Except as provided above in Section 8 with respect to  
5 “RESTRICTED CONFIDENTIAL – SOURCE CODE” Material, any  
6 Material (including physical objects) made available for inspection by  
7 counsel for the Receiving Party prior to producing copies of selected items  
8 shall initially be considered, as a whole, to constitute “ATTORNEYS’  
9 EYES ONLY” information, and shall be subject to this Order. Thereafter,  
10 the Producing Party shall have ten (10) calendar days from the inspection  
11 to review and designate the appropriate documents as “CONFIDENTIAL”  
12 or “ATTORNEYS’ EYES ONLY” prior to furnishing copies to the  
13 Receiving Party.

14 9.2 Except as otherwise provided in this Order or as otherwise  
15 stipulated or ordered, Material that qualifies for protection under this  
16 Order must be designated in accordance with this Section before the  
17 Material is disclosed or produced. In addition to the marking of  
18 documents and things with the appropriate level of confidentiality as  
19 provided in this Order, all documents and things produced by a Producing  
20 Party shall be numbered using a prefix bearing the Producing Party’s  
21 name or an abbreviation thereof.

22 9.3 Designation in conformity with this Order shall be made as  
23 follows:

- 24 (a) For information in documentary form (apart from transcripts of  
25 depositions), the Producing Party shall affix the legend  
26 “CONFIDENTIAL,” “ATTORNEYS’ EYES ONLY,” or  
27 “RESTRICTED CONFIDENTIAL – SOURCE CODE” on  
28 each page that contains Designated Material.

1 (b) For testimony given in deposition, the Designating Party shall  
2 specify any portions of the testimony that it wishes to  
3 designate as “CONFIDENTIAL,” “ATTORNEYS’ EYES  
4 ONLY,” or “RESTRICTED CONFIDENTIAL – SOURCE  
5 CODE.” In the case of depositions, the Designating Party may  
6 also designate any portion of a deposition transcript as  
7 “CONFIDENTIAL,” “ATTORNEYS’ EYES ONLY,” or  
8 “RESTRICTED CONFIDENTIAL – SOURCE CODE” by  
9 informing the reporter, and opposing Parties, in writing within  
10 thirty (30) calendar days of completion of the deposition of the  
11 designations to be applied. All deposition transcripts not  
12 marked at least “ATTORNEYS’ EYES ONLY” during the  
13 deposition will nonetheless be treated as “ATTORNEYS’  
14 EYES ONLY” until the thirty (30) day period has expired.  
15 Transcript pages containing Designated Material must be  
16 separately bound by the court reporter, who must affix to the  
17 top of each such page the legend “CONFIDENTIAL,”  
18 “ATTORNEYS’ EYES ONLY,” or “RESTRICTED  
19 CONFIDENTIAL – SOURCE CODE” as instructed by the  
20 Designating Party.

21 (c) For information produced in some form other than  
22 documentary, and for any other tangible items, the Producing  
23 Party shall affix in a prominent place on the exterior of the  
24 container or containers in which the information or thing is  
25 stored the legend “CONFIDENTIAL”, “ATTORNEYS’ EYES  
26 ONLY” or “RESTRICTED CONFIDENTIAL – SOURCE  
27 CODE” to the extent reasonably practical.

28 ///

1 (d) The provisions of this sub-section 9.3 do not apply to  
2 documents produced in native format. Documents produced in  
3 native format will have their respective confidentiality  
4 designation identified in the filename of the native file.

5 9.4 In the event that a Producing Party mistakenly or inadvertently  
6 fails to stamp or otherwise designate a document or other information as  
7 “CONFIDENTIAL”, “ATTORNEYS’ EYES ONLY” or “RESTRICTED  
8 CONFIDENTIAL – SOURCE CODE” at the time of its production, it  
9 may be corrected by written notification to counsel for the Receiving  
10 Party, and the Receiving Party must make reasonable efforts to assure that  
11 the material is treated in accordance with the terms of this Order. The  
12 Receiving Party and other authorized recipients of such documents or  
13 information shall not be responsible for any otherwise prior actions taken  
14 with respect to such documents or information before receiving notice of  
15 the designation. Upon designation the Receiving Party shall take  
16 reasonable efforts to retrieve such information from individuals  
17 unauthorized to access it and to ensure that the information is treated  
18 consistent with its designation and this Protective Order.

19 10. **GENERAL USE OF DESIGNATED MATERIAL.** Unless  
20 otherwise ordered by the Court, or agreed to in writing by the Parties, all  
21 Designated Material, and all information derived therefrom, shall be used by the  
22 Receiving Party only for purposes of this Action and the related actions filed by  
23 McRo, Inc. d.b.a. Planet Blue in the District of Delaware on November 21, 2012,  
24 where the Producing Party is a party to that litigation, except as provided for in  
25 this Order. Designated Material shall not be used for any other purpose  
26 including, but not limited to, any business, proprietary, commercial, legal/other  
27 litigation, arbitration or claim, or governmental purpose. Information contained  
28 or reflected in Designated Material shall not be disclosed in conversations,

1 presentations by parties or counsel, in court or in other settings that might reveal  
2 Designated Material, except in accordance with the terms of this Order.

3 10.1 Nothing in this Order shall limit any Designating Party's use  
4 of its own documents and information, nor shall it prevent the Designating  
5 Party from disclosing its own confidential information, documents or  
6 things to any person. Such disclosure shall not affect any designations  
7 made pursuant to the terms of this Order, so long as the disclosure is made  
8 in a manner that is reasonably calculated to maintain the confidentiality of  
9 the information.

10 10.2 Nothing in this Order shall limit a Receiving Party from  
11 making use of or disclosing documents and/or things that (a) were  
12 lawfully in its possession prior to receipt of such information from a  
13 Producing Party; (b) appear in any published material available to the  
14 Producing Party's trade or business, available to the public, or otherwise  
15 become available within the public domain, other than as a consequence  
16 of the Receiving Party's breach of any obligation not to disclose the  
17 information; or (c) it lawfully obtains subsequent to the Producing Party's  
18 disclosure, without obligation of confidence, from a source or sources  
19 other than the Producing Party; regardless of whether the same is  
20 Designated Material.

21 10.3 Without written permission from the Designating Party or a  
22 Court Order secured after appropriate notice to all interested persons, a  
23 Party may not file in the public record in this action any Designated  
24 Material, but must submit such Designated Material for filing under seal  
25 in conformance with Local Rule 79-5. Material submitted for filing under  
26 seal shall bear the title of this matter, an indication of the nature of the  
27 contents of such sealed filing, the words "CONFIDENTIAL  
28 INFORMATION – UNDER PROTECTIVE ORDER", "ATTORNEYS'

1 EYES ONLY INFORMATION - UNDER PROTECTIVE ORDER”, or  
2 “RESTRICTED CONFIDENTIAL – SOURCE CODE – UNDER  
3 PROTECTIVE ORDER”, as appropriate, and a statement substantially in  
4 the following form:

5 This filing contains confidential information filed in this  
6 case by (name of party) and its contents shall not be  
7 displayed or revealed except by order of the Court  
8 presiding over this matter.

9 10.4 This Protective Order shall not bar or otherwise restrict  
10 Counsel of Record from rendering advice to his or her client with  
11 respect to the Action, and in the course thereof, referring to or  
12 relying generally upon his or her examination of Designated  
13 Material, provided, however, that in rendering such advice and in  
14 otherwise communicating with his or her client, the attorney shall  
15 not disclose the content of such information designated as  
16 Designated Material contrary to the terms of this Protective Order.

17 10.5 Designated Material shall not be used in any other  
18 way, or for any other purpose, including the acquisition,  
19 preparation or prosecution before the Patent Office of any patent  
20 application, or in connection with patent licensing. Any attorney,  
21 patent agent, or other person who has accessed items designated by  
22 Defendant as “RESTRICTED CONFIDENTIAL — SOURCE  
23 CODE” or “ATTORNEYS’ EYES ONLY” and which describes  
24 the structure and/or operation of Defendant’s products in this  
25 Action, including schematic diagrams, manufacturing drawings,  
26 engineering drawings, engineering notebooks, specifications,  
27 research notes and materials, source code, and other technical  
28 descriptions and/or depictions, shall not be involved, directly or

1 indirectly, with any of the following: advising on, consulting on,  
2 preparing, prosecuting, drafting, editing, amending and/or  
3 affecting the scope of patents and patent applications with the  
4 exception of U.S. Patent Nos. 6,307,576 or 6,611,278, including,  
5 but not limited to, specifications, claims, and/or responses to office  
6 actions, before any foreign or domestic agency, including the  
7 United States Patent and Trademark Office, where such patent  
8 applications are related to the subject matter of 3D animation  
9 and/or lip-synchronization. These prohibitions are not intended to  
10 and shall not preclude counsel from participating in reexamination  
11 proceedings on behalf of a Party challenging the validity of any  
12 patent, but are intended, inter alia, to preclude counsel from  
13 participating directly or indirectly in reexamination or reissue  
14 proceedings on behalf of a patentee, excluding any reexamination  
15 proceeding of U.S. Patent Nos. 6,307,576 or 6,611,278 not  
16 initiated by or on behalf of McRO, Inc. d.b.a. Planet Blue. These  
17 prohibitions shall begin when access to the relevant Designated  
18 Material is first received by the affected individual, and shall end  
19 one year after final resolution of this action, including all appeals.

20 11. **NO WAIVER OF PRIVILEGE.** Subject to the provisions of  
21 Federal Rule of Evidence 502, inspection or production of documents (including  
22 physical objects) shall not constitute a waiver of the attorney-client privilege,  
23 work product immunity, or any other applicable privilege or immunity. If the  
24 Producing Party becomes aware of any inadvertent disclosure, the Producing  
25 Party may promptly designate any such documents as within the attorney-client  
26 privilege, work product immunity or any other applicable privilege or immunity  
27 and request in writing return of such documents to the Producing Party. Upon  
28 such request, the Receiving Party shall immediately retrieve and return or

1 destroy all copies of such document(s). In turn, the Producing Party shall keep a  
2 copy of the document(s) requested to be retrieved and returned or destroyed, and  
3 shall create a privilege log for all such documents requested to be returned or  
4 destroyed, regardless of the date of the document, (for example, if the document  
5 would not have otherwise needed to be placed on the privilege log subject to  
6 Section 13 of this Order) and designate them as within the attorney-client  
7 privilege, work product immunity or any other applicable privilege or immunity,  
8 along with the appropriate identifying information. Nothing herein shall prevent  
9 the Receiving Party from challenging the propriety of the attorney-client  
10 privilege, work product immunity or other applicable privilege or immunity  
11 designation by submitting a written challenge to the Court or by otherwise  
12 presenting to the Court (if requested by the Court); provided, however, that such  
13 challenge shall not assert as a ground for challenge the fact of the initial  
14 production or inspection of the documents later designated as attorney-client  
15 privileged, work product, or subject to another applicable privilege or immunity,  
16 and shall not refer to the content of the inadvertently-produced items.

17 **12. CHALLENGES TO CONFIDENTIALITY DESIGNATIONS.**

18 The Parties will use reasonable care when designating information as  
19 “CONFIDENTIAL,” “ATTORNEYS’ EYES ONLY,” or “RESTRICTED  
20 CONFIDENTIAL – SOURCE CODE.” Nothing in this Order shall prevent a  
21 Receiving Party from contending that any or all documents or information  
22 designated as Confidential Material, Attorneys’ Eyes Only Material, or  
23 Restricted Confidential – Source Code Material have been improperly  
24 designated. A Receiving Party may, at any time, request that the Producing  
25 Party cancel or modify the confidentiality designation with respect to any  
26 document or information contained therein. A Party shall not be obligated to  
27 challenge the propriety of a “CONFIDENTIAL,” “ATTORNEYS’ EYES  
28 ONLY,” or “RESTRICTED CONFIDENTIAL – SOURCE CODE” designation



1 at the time made, and the failure to do so shall not preclude a subsequent  
 2 challenge thereto. Such a challenge shall be written, shall be served on counsel  
 3 for the Producing Party, and shall identify particularly the documents or  
 4 information that the Receiving Party contends should be differently designated.  
 5 The parties shall use their best efforts to resolve promptly and informally such  
 6 disputes in accordance with all applicable rules including L.R. 37. If agreement  
 7 cannot be reached, the Receiving Party shall request that the Court cancel or  
 8 modify a “CONFIDENTIAL,” “ATTORNEYS’ EYES ONLY,” or  
 9 “RESTRICTED CONFIDENTIAL – SOURCE CODE” designation.

10 13. **COMMUNICATIONS BETWEEN PARTIES AND COUNSEL**  
 11 **OF RECORD.** Responsive documents and things subject to the attorney-client  
 12 privilege, work product protection, and/or other applicable protection/immunity,  
 13 including privileged or protected communications between a Party and its  
 14 respective Counsel of Record, occurring after the date of filing of Planet Blue’s  
 15 initial Complaints or the date of retention of litigation Counsel of Record,  
 16 whichever came first, need not be produced or disclosed on a privilege log in  
 17 response to a discovery request served by another Party, absent an order of the  
 18 Court, except as required to rely on an opinion of counsel as part of a defense in  
 19 this Action. This agreement is without prejudice to any Party’s ability to make a  
 20 particularized request for a limited privilege log relating to specific documents,  
 21 or upon an appropriate showing of the potential discoverability of the documents  
 22 over any privilege or protection objections.

23 14. **EXPERT REPORTS, DECLARATIONS AND**  
 24 **COMMUNICATION.** For experts retained in anticipation of or in connection  
 25 with this Action, documents constituting drafts of expert reports and  
 26 declarations, and documents constituting notes created by or for an expert in  
 27 connection with preparation of his or her expert report or declaration, shall not  
 28 be discoverable and need not be preserved unless the expert relies upon such



1 drafts and/or notes. Work product materials, including communications,  
2 generated in connection with non-testifying experts and consultants who are  
3 retained solely in anticipation of or in connection with the above-captioned  
4 litigation, shall not be discoverable absent an order by the Court. Conversations  
5 or communications between counsel and any testifying expert or consultant shall  
6 not be discoverable absent an order by the Court, except to the extent such  
7 conversations or communications are relied upon by the expert.

8 15. **UNAUTHORIZED DISCLOSURE**. If a Receiving Party learns  
9 that, by inadvertence or otherwise, it has disclosed Designated Material to any  
10 person or in any circumstance not authorized under this Order, the Receiving  
11 Party must immediately (a) notify in writing the Designating Party of the  
12 unauthorized disclosures, (b) use its best efforts to retrieve all copies of the  
13 Designated Material, (c) inform the person or persons to whom unauthorized  
14 disclosures were made of all the terms of this Order, and (d) request such person  
15 or persons to execute the “Acknowledgment and Agreement to Be Bound” that is  
16 attached hereto as Exhibit A.

17 16. **NON-PARTY USE OF THIS PROTECTIVE ORDER**. A non-  
18 party that produces Material voluntarily, or pursuant to a subpoena or a court  
19 order, may designate such Material in the same manner, and shall receive the  
20 same level of protection under this Protective Order, as any Party to this lawsuit.  
21 A non-party’s use of this Protective Order to protect its Confidential Material,  
22 Attorneys’ Eyes Only Material, or Restricted Confidential – Source Code  
23 Material does not entitle that non-party access to Confidential Material,  
24 Attorneys’ Eyes Only Material, or Restricted Confidential – Source Code  
25 Material produced by any Party in this case. Any non-party who is subpoenaed  
26 or whose documents, things, or other items are otherwise requested in  
27 connection with this action must be provided a copy of this Protective Order and  
28 be made aware of their right to produce documents pursuant thereto.

1           17. **MATERIAL SUBPOENAED IN OTHER LITIGATION.** If a  
2 Receiving Party is served with a subpoena or a court order that would compel  
3 disclosure of any information, documents or things designated in this action as  
4 “CONFIDENTIAL,” “ATTORNEYS’ EYES ONLY,” or “RESTRICTED  
5 CONFIDENTIAL – SOURCE CODE,” the Receiving Party must so notify the  
6 Producing Party, in writing (by fax and email) promptly, and in no event more  
7 than five (5) calendar days after receiving the subpoena or order. Such  
8 notification must include a copy of the subpoena or order. The Receiving Party  
9 also must immediately inform, in writing, the party who caused the subpoena or  
10 order to issue that some or all of the material covered by the subpoena or order is  
11 subject to this Protective Order. In addition, the Receiving Party must deliver a  
12 copy of this Protective Order promptly to the party in the other action that caused  
13 the subpoena or order to issue. The Receiving Party must also cooperate with  
14 respect to all reasonable procedures sought to be pursued by the Producing Party  
15 whose Designated Material may be affected. If the Producing Party timely seeks  
16 a protective order, the party served with a subpoena or court order shall not  
17 produce any information designated in this Action as “CONFIDENTIAL,”  
18 “ATTORNEYS’ EYES ONLY,” or “RESTRICTED CONFIDENTIAL –  
19 SOURCE CODE,” before a determination by the court from which the subpoena  
20 or order issued, unless the party has obtained the Producing Party’s permission.  
21 The Producing Party shall bear the burdens and the expenses of seeking  
22 protection in that court of its Designated Material. Nothing in these provisions  
23 should be construed as authorizing or encouraging a Receiving Party in this  
24 action to disobey a lawful directive from another court.

25           18. **WAIVER OF NOTICE PROVISIONS.** Any of the notice  
26 requirements herein may be waived, in whole or in part, but only by a writing  
27 from the Counsel of Record for the Party against whom such waiver will be  
28 effective.

1           19. **MODIFICATION AND OBJECTIONS.** This Order is entered  
2 without prejudice to the right of any Party to apply to the Court at any time for  
3 modification of this Order, when convenience or necessity requires. Nothing in  
4 this Order abridges the right of any person to seek to assert other objections. No  
5 Party waives any right it otherwise would have to object to disclosing or  
6 producing any information, documents, or things on any ground not addressed in  
7 this Protective Order. Similarly, no Party waives any right to object on any  
8 ground to the use in evidence of any of the material covered by this Protective  
9 Order. The Court shall take appropriate measures to protect Designated Material  
10 at trial and any hearing in this case.

11           20. **JURISDICTION.** The United States District Court for the Central  
12 District of California, Western Division, is responsible for the interpretation and  
13 enforcement of this Protective Order. All disputes concerning Designated  
14 Material produced under the protection of this Protective Order shall be resolved  
15 by the United States District Court for the Central District of California, Western  
16 Division. Every individual who has signed the “Acknowledgement and  
17 Agreement To Be Bound By Confidentiality Order” attached as Exhibit A, or  
18 who received any Designated Material, agrees to subject himself or herself to the  
19 jurisdiction of this Court for the purpose of any proceedings related to  
20 performance under, compliance with, or violation of this Order.

21           21. **FINAL DISPOSITION.** Unless otherwise ordered or agreed in  
22 writing by the Producing Party, within sixty (60) calendar days after the final  
23 termination of this Action as to the Producing Party, all Parties, persons, and  
24 entities (including experts and consultants) who received Designated Material  
25 shall make a good faith effort to destroy or return to Counsel of Record for the  
26 Producing Party all Designated Material and any and all copies of such  
27 Designated Material. In the case of material designated “RESTRICTED  
28 CONFIDENTIAL – SOURCE CODE,” the Receiving Party must return (not

1 destroy) the material. The Receiving Party must submit a written confirmation of  
2 the return or destruction to the Producing Party (and, if not the same person or  
3 entity, to the Designating Party) by the 60-day deadline. Notwithstanding this  
4 provision, Counsel of Record may retain an archival copy of all pleadings,  
5 motion papers, deposition transcripts (including exhibits), transcripts of other  
6 proceedings (including exhibits), expert reports (including exhibits), discovery  
7 requests and responses (including exhibits), exhibits offered or introduced into  
8 evidence at trial, legal memoranda, correspondence, attorney work product, and  
9 legal files, even if such materials contain Designated Material. Any such  
10 archival copies that contain or constitute Designated Material remain subject to  
11 this Protective Order as set forth in Section 20, below.

12 22. **DURATION**. Even after the termination of this Action, the  
13 confidentiality obligations imposed by this Order shall remain in effect until a  
14 Designating Party agrees otherwise in writing or a court order otherwise directs.  
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17 DATED: June 10, 2014

/S/ FREDERICK F. MUMM  
The Honorable Frederick F. Mumm  
United States Magistrate Judge  
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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION**

McRO, Inc., d.b.a. Planet Blue,  
Plaintiff,

v.

Valve Corporation,  
Defendant.

**CASE No. 8:13-cv-01874-GW (FFMx)**

**Honorable George H. Wu**

**EXHIBIT A:  
ACKNOWLEDGEMENT AND  
AGREEMENT TO BE BOUND BY  
PROTECTIVE ORDER**

I, \_\_\_\_\_ [print or type  
full name], of \_\_\_\_\_ hereby affirm that:

Information, including documents and things designated as “Confidential,”  
“Attorneys’ Eyes Only,” or “Restricted Confidential—Source Code,” as defined in  
the Protective Order entered in this Litigation, will be provided to me pursuant to  
the terms and restrictions of the Protective Order.

I have been given a copy of and have read the Protective Order.

1 I am familiar with the terms of the Protective Order and I agree to comply  
2 with and to be bound by its terms. I submit to the jurisdiction of this Court for  
3 enforcement of the Protective Order.  
4

5 I agree not to use any Confidential, Attorneys' Eyes Only, or Restricted  
6 Confidential – Source Code information disclosed to me pursuant to the Protective  
7 Order except for purposes of this Litigation and not to disclose any of this  
8 information to persons, other than those specifically authorized by the Protective  
9 Order, without the express written consent of the Party who designated the  
10 information as confidential or by order of the Court.  
11

12  
13 DATED: \_\_\_\_\_

14 CITY, STATE WHERE SWORN AND SIGNED: \_\_\_\_\_

15 PRINTED NAME: \_\_\_\_\_

16 SIGNATURE: \_\_\_\_\_  
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5 **UNITED STATES DISTRICT COURT**  
6 **CENTRAL DISTRICT OF CALIFORNIA**  
7 **WESTERN DIVISION**  
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9 McRO, Inc., d.b.a. Planet Blue,  
10 Plaintiff,

11 v.

12 Valve Corporation,

13 Defendant.  
14  
15  
16

**CASE No. 8:13-cv-01874-GW (FFMx)**

**Honorable George H. Wu**

**EXHIBIT B: CERTIFICATION OF  
CONSULTANT**

17  
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19 I, \_\_\_\_\_ [print or type  
20 full name], of \_\_\_\_\_ hereby affirm that:

21 Information, including documents and things designated as “Confidential,”  
22 “Attorneys’ Eyes Only,” or “Restricted Confidential – Source Code,” as defined in  
23 the Protective Order entered in this Litigation, is being provided to me pursuant to  
24 the terms and restrictions of the Protective Order. I have been given a copy of and  
25 have read the Protective Order.  
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1 I am familiar with the terms of the Protective Order and I agree to comply  
2 with and to be bound by its terms. I submit to the jurisdiction of this Court for  
3 enforcement of the Protective Order.  
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5 I agree not to use any Confidential, Attorneys' Eyes Only, or Restricted  
6 Confidential – Source Code information disclosed to me pursuant to the Protective  
7 Order, except for purposes of this Litigation, and not to disclose any of this  
8 information to persons, other than those specifically authorized by the Protective  
9 Order, without the express written consent of the Party who designated the  
10 information as confidential or by order of the Court. I also agree to notify any  
11 stenographic, clerical or technical personnel who are required to assist me of the  
12 terms of this Protective Order and of its binding effect on them and me.  
13  
14

15 Pursuant to Section 6 of the attached Protective Order, I have provided (a)  
16 my name and business title; (b) my business address; (c) my business or  
17 profession; (d) my CV; (e) any previous or current relationship (personal or  
18 professional) with any of the parties or their affiliates; (f) a list of other cases in  
19 which I have testified (at trial or by deposition) within the last four years; (g) a list  
20 of all companies with which I have consulted or by which I have been employed  
21 within the last four years; and (h) a signed copy of the "Acknowledgement and  
22 Agreement To Be Bound By Protective Order" attached as Exhibit A.  
23  
24  
25

26 I understand that I am to retain all documents or materials designated as or  
27 containing Confidential, Attorneys' Eyes Only, or Restricted Confidential – Source  
28



1 Code information in a secure manner, and that all such documents and materials  
2 are to remain in my personal custody until the completion of my assigned duties in  
3 this matter, whereupon all such documents and materials, including all copies  
4 thereof, and any writings prepared by me containing any Confidential, Attorneys'  
5 Eyes Only, or Restricted Confidential– Source Code information are to be returned  
6 to counsel who provided me with such documents and materials.  
7

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9 DATED: \_\_\_\_\_

10 CITY, STATE WHERE SWORN AND SIGNED: \_\_\_\_\_

11 PRINTED NAME: \_\_\_\_\_

12 SIGNATURE:

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